

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

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KEVIN CISNEROS DE LA ROSA,

Petitioner,

v.

CHARLES GREEN,

Respondent.

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Civ. No. 17-7392 (KM)

**MEMORANDUM OPINION**

**KEVIN MCNULTY, U.S.D.J.**

Petitioner, Kevin Cisneros De la Rosa, is an immigration detainee who is presently detained at the Essex County Correctional Facility, in Newark, New Jersey. He is proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. For the following reasons, and upon consent of respondent, the habeas petition will be granted insofar as the matter is remanded and the petitioner will receive a bond hearing.

Petitioner is a native and citizen of Guatemala. He entered the United States in March or April of 2014, and resided here since that time. In early March 2017, the Department of Homeland Security, Immigrations and Customs Enforcement, (“ICE”) charged petitioner as being inadmissible, commenced removal proceedings against him, and took him into immigration custody. Petitioner has apparently remained in immigration custody since that time.

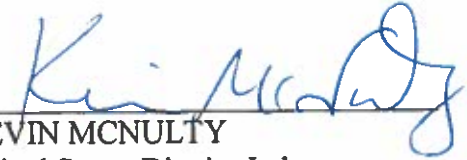
Petitioner filed this habeas petition on September 21, 2017. He argued that his detention would soon exceed the constitutional restrictions on mandatory detention under 8 U.S.C. § 1226(c) and sought an order granting immediate release or, alternatively, directing that he receive an individualized bond hearing. On October 5, 2017, I ordered respondent to file an

answer responding to the petition. (ECF No. 2.) Counsel for respondent subsequently filed a response indicating that petitioner was detained under 8 U.S.C. § 1226(a). (ECF No. 4.) The response stated that, “[u]pon information and belief, Petitioner appeared once for a bond hearing, but no action was taken because the Immigration Judge wanted additional information.” (*Id.*) Respondent’s counsel represented that “the United States does not object to the Court entering an order remanding this matter to the Immigration Court for a bond hearing.” (*Id.*)

An alien taken into custody pending a removal determination under 8 U.S.C. § 1226(a) may be detained or may be released on bond or parole. Generally aliens detained under § 1226(a) should receive a bond hearing at the outset of detention. *See* 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1). As respondent seemingly concedes that petitioner should receive a bond hearing and explicitly does not object to the ordering of such a hearing, I will remand this proceeding to the Immigration Court for that purpose

For the foregoing reasons, the habeas petition will be granted insofar as ordering that an Immigration Judge provide petitioner with an individualized bond hearing, pursuant to 8 U.S.C. § 1226, within fourteen days of the date of this memorandum opinion and order. An appropriate order will be entered.

DATED: April 2, 2018

  
KEVIN MCNULTY  
United States District Judge